

## **REMARKS/ARGUMENTS**

### **I. Status of Claims**

Claims 1-28 are pending of which claims 1, 10, 15, and 20 are independent.  
Claims 1, 10, 15 and 20 have been amended.

### **II. Rejections under 35 U.S.C. §103 (a)**

#### **Claims 1-4, 6-8, and 15-17**

Claims 1-4, 6-8, and 15-17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Davies et al. (U.S. Pub. No. 2003/0185249 – hereinafter Davies) in view of Williams et al. (U.S. Pub. No. 2002/0087723 – hereinafter Williams). Applicants respectfully traverse this rejection.

#### **I.**

With respect to claim 1, in the Advisory Action, responding to Applicants' arguments made in the Amendment After Final filed July 27, 2009 (hereinafter "the AAF") regarding the lack of qualification as a valid piece of prior art with respect to the Wiki Page cited in the Final Office Action, the Examiner stated the following:

*"The intention of providing the Wiki Page was to show and support Davies and Williams' teaching that an 802.1Q frame containing a CoS field, which has 3 bits to represent 8 classes/level of service/priority, is commonly known in the art[,] rather than [to show that the Wiki Page is] a prior art. Even without the Wiki page, it is very clear that Davies and Williams together teach the common acknowledge (see Davies. [0003] and Williams, [0057]). The only difference is that they do not specifically use the term CoS (since it is well known to one with ordinary skill in the art). In fact, the Applicants' specification agrees with the examiner that an 802.1Q frame contains 3 bits to represent 8 classes/levels of service/priority (see Applicants' spec, page 11 lines 5-7). Therefore, the examiner respectfully asserts that the rejections made to claims 1, 10, 15, 20 and their dependent claims remain."*

In response, first, Applicants respectfully point out that the Examiner's use of the term *classes/levels of service/priority* is inappropriate. The alleged "classes/levels of service/priority" cannot be found anywhere in the cited references and the specification. In fact, the specification expressly distinguishes between a *class of services* and a *priority level* at least in the area of classifying Ethernet frames for switching control. Accordingly, Applicants respectfully submit that the alleged *classes/levels of service/priority* has no acceptable meaning and renders the Examiner's analysis improper at least for this reasons.

Second, with respect to the Examiner-stated intention of "providing the Wiki Page was to show..., rather [to show that the Wiki Page is] a prior art", Applicants respectfully submit that such a practice of knowingly using an invalid prior art reference in an attempt to establish alleged "common-knowledge" is prohibited under the MPEP and 35 U.S.C. §102, and therefore cannot be used to support a prima facie case of obviousness in this case.

Third, with respect to the Examiner's allegation that "an 802.1Q frame containing a CoS field, which has 3 bits to represent 8 classes/levels of service/priority, is commonly known in the art", Applicants respectfully submit that this allegation **has no bearing** on the patentability of the claimed embodiments of Applicants' inventions, at least because the Examiner fails to allege that, an 802.1Q frame containing a CoS field having 3 bits to represent 8 classes of services, was commonly known in the art **at the time of the invention**.

Further, even if, *assuming arguendo*, that, an 802.1Q frame containing a CoS field, was commonly known in the art at the time of the invention, such knowledge, along with Davies and Williams, still would not establish the obviousness of *buffering the received Ethernet frame in a data buffer classified by the CoS and generating a PAUSE frame containing a value of the CoS*, as recited in claim 1. This is at least because the alleged fact that *an 802.1Q frame containing a CoS field* and the claimed steps of *buffering the received Ethernet frame in a data buffer classified*

*by the CoS and generating a PAUSE frame containing a value of the CoS are different subject matter. There could be myriad pieces of information included in an 802.1Q frame. Inclusion of a particular piece of information, for example, a CoS, in an 802.1Q frame does not automatically and necessarily lead to using that piece of included information as a basis for classifying received frames. In particular, the Examiner has yet to point out anywhere in the prior art how a CoS can be used as a basis for classifying received frames that results in buffering the received Ethernet frame in a data buffer classified by the CoS and generating a PAUSE frame containing a value of the CoS, as recited in claim 1.*

Fourth, with respect to the Examiner's assertion that: "[Even] without the Wiki page, it is very clear that Davies and Williams together teach the common knowledge (see Davies [0003] and Williams, [0057]). The only difference is that they do not specifically use the term CoS (since it is well known to one with ordinary skill in the art). In fact, the Applicants' specification agrees with the examiner that an 802.1Q frame contains 3 bits to represent 8 classes/levels of service/priority (see Applicants' spec, page 11 lines 5-7)" (see lines 7-10 of the continuation sheet of the Advisory Action), Applicants respectfully disagree.

In fact, nowhere does Davies and Williams teach the alleged "common knowledge" of *an 802.1Q frame containing a CoS field*. The cited paragraph [0003] and paragraph [0057] of Williams, at best, disclose *priority levels*, rather than *classes of services*, as used in classifying Ethernet frames.

Additionally, the Examiner's allegation that "[T]he only difference is that they do not specifically use the term CoS (since it is well known to one with ordinary skill in the art)" does not help to cure the deficiencies of Davis and Williams. More specifically, by virtue of the assertion, the Examiner acknowledges that there is a gap between the combination of Davies and Williams and the inventions recited in the current claims associated with CoS. However, even if CoS were well known to one with ordinary skill in the art, as the Examiner alleges, **it does not automatically and**

**necessarily establish** that *buffering the received Ethernet frame in a data buffer classified by the CoS and a PAUSE frame containing a value of the CoS*, as recited in claim 1, would somehow also be well known to one with ordinary skill in the art. Hence, the allegation **has no bearing** on the patentability of the claimed embodiments of Applicants' inventions. Accordingly, the Examiner's unsupported allegation does not help to cure the deficiencies of Davis and Williams.

Moreover, the Examiner's allegation that "*the Applicants' specification agrees with the examiner that an 802.1Q frame contains 3 bits to represent 8 classes/levels of service/priority (see Applicants' spec, page 11 lines 5-7)*" is **incorrect**. First, as noted above, the Examiner's use of the term "classes/levels of service/priority" is **inappropriate**. Further, the cited page 11, lines 5-7 of the specification merely discloses an example where Ethernet frames received by the Ethernet switch contain 3-bit priority information in an 802.1Q priority field. Nowhere does the cited page 11, lines 5-7 of the specification disclose that an 802.1Q frame contains 3 bits to represent 8 *classes of services*. Accordingly, this allegation of the Examiner is incorrect.

In summary, the Examiner fails to establish any valid evidence that may cure the deficiencies of Davies and Williams associated with CoS in the context classifying Ethernet frames for switching control. Accordingly, claim 1 should be allowable over Davis and Williams. The rejection of claim 1 should therefore be withdrawn.

## II.

Furthermore, claim 1 has been further amended to incorporate the feature of *wherein an amount of the data buffer is dynamically assigned according to the value of the CoS*. Applicants respectfully submit that nowhere do Davies and Williams, nor any reasonable combination of thereof, disclose, teach, or suggest such a feature.

Accordingly, also at least for this additional reason, claim 1 should be allowable over Davis and Williams, and the rejection of claim 1 should therefore be withdrawn.

Claim 15 contains subject related to that of claim 1. Accordingly, for at least the same reasons stated above in connection with claim 1, the rejection of claim 15 should be withdrawn.

The rejection of claims 2, 3, 4, 6, 7, 8, 16 and 17 should be withdrawn at least by virtue of their dependency from claims 1 and 15, respectively.

Claims 5, 9, 10-14 and 18-28

Claim 5 is rejected under 35 U.S.C. §103(a) as being unpatentable over Davies in view of Williams, as applied to claim 1 above, and further in view of Chen et al. (U.S. Pub. No. 2003/0147347 – hereinafter Chen). Still further, claim 9 is rejected under 35 U.S.C. §103(a) as being unpatentable over Davies in view of Williams. Still further, claims 10-12 and 14 are rejected under 35 U.S.C. §103(a) as being unpatentable over Davies in view of Williams and in view of Lin (U.S. Patent No. 6,754,179 – hereinafter Lin) and further in view of Pope et al. (GB Patent No. 2 372 679 – hereinafter Pope). Still further, claim 13 is rejected under 35 U.S.C. §103(a) as being unpatentable over Davies, Williams, Lin and Pope, as applied to claim 10 above, and further in view of Chen. Still further, claims 18 and 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Davies and Williams, as applied to claim 15 above, and further in view of Lin. Still further, claims 20-22 and 25-28 are rejected under 35 U.S.C. §103(a) as being unpatentable over Davies in view of Williams and further in view of Chen. Still further, claims 23 and 24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Davies in view of Williams and Chen, as applied to claim 20 above, and further in view of Lin.

Claims 10 and 20 contain subject related to that of claim 1. Accordingly, for at least the same reasons stated above in connection with claim 1, claims 10 and 20 should also be distinguishable from Davies and Williams. Further, the cited secondary

references Pope, Lin and Chen do not cure the above-noted deficiencies of Davies and Williams. Accordingly, claims 10 and 20 should be allowable over Davies, Williams, Pope, Lin and Chen. The rejections of claims 10 and 20 should therefore be withdrawn.

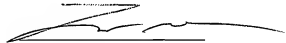
The rejections of claims 5, 9, 11-14, 18, 19 and 21-28 should be withdrawn at least by virtue of their dependency from allowable claims 10 and 20 respectively.

### **III. Conclusion**

In view of the above, it is believed that this application is in condition for allowance and notice to this effect is respectfully requested. Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the telephone number indicated below.

Should any/additional fees be required, the Director is hereby authorized to charge the fees to Deposit Account No. 18-2220.

Respectfully submitted,



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